

The Yuma County Board of Adjustment met in a regular session on February 21, 2023. The meeting was held at Aldrich Auditorium at 2351 West 26th Street, Yuma, Arizona.

CALL TO ORDER: At 1:00 p.m., Chairman Saltzer convened the Board of Adjustment meeting. Board Members present: Tim Eisenmann, Eric Saltzer, Rosalie Lines and Joe Harper. Board Member Neil Tucker was absent. Others present: Planning Director Maggie Castro, AICP; Associate Planner Jose Guzman; Associate Planner Jesus Carrillo; Deputy County Attorney Minda Davy and PZ Commission Admin Specialist Amber Kelly.

PLEDGE OF ALLEGIANCE: Chairman Saltzer led the Pledge of Allegiance.

ITEM No. 3: Approval of the Board of Adjustment Regular meeting minutes of January 17, 2023.

MOTION (Lines/Harper): Approve as presented with the minor change of adding the word "feet" after the number 120.

ROLL CALL VOTE: Eisenmann – AYE; Saltzer- AYE; Lines- AYE; Harper- AYE.
The motion carried 4-0.

ITEM No. 4: Variance Case No. 22-11: Donna Marie Dibley requests a variance from the Yuma County Zoning Ordinance, 606.05—Principal Buildings Setback Requirements, to allow a side yard setback of zero feet, on two parcels 6,781 square feet in size zoned High Density Residential (R-3), Assessor's Parcel Numbers 664-01-096 and -097, located at 966 South 37th Avenue and 967 South 37th Avenue, Yuma AZ.

Associate Planner Jose Guzman presented the staff report recommending denial of Variance Case No. 22-11 based on:

1. Staff finds there is no hardship arising from conditions or circumstances unique to the development of this property.
2. Staff finds there are no specific peculiar conditions applicable to this property to warrant granting of a variance.
3. Staff finds the condition is self-imposed.

If the Board of Adjustment approves this variance, staff suggests attaching the following conditions:

1. This variance is valid for the time limits outlined in Section 403.07 of the Zoning Ordinance.
2. Approval of this variance is based on the site plan submitted. Any deviation from the site plan will require approval of a new variance by the Board of Adjustment.

Board Member Eisenmann inquired about the access to the property.

Associate Planner Jose Guzman explained access was off of South 37th Avenue.

Planning Director Maggie Castro, AICP, explained the site plan depicts the location of the duplexes more clearly.

Board Member Lines inquired if all of the buildings would have a zero setback and all individually owned.

Planning Director Maggie Castro, AICP, stated the buildings would be converted to condominiums or townhomes sharing a common wall between them.

Board Member Eisenmann inquired about where 37th Avenue was located.

Planning Director Maggie Castro, AICP, stated the PowerPoint presentation on the screen was modified with a clearer picture of where 37th Avenue is located.

Board Member Harper inquired about the size of the parcels.

Planning Director Maggie Castro, AICP, explained once the parcels are split each parcel would be approximately 3,500 square feet.

Board Member Lines inquired if that size complied with the City and the County.

Planning Director Maggie Castro, AICP, stated that did not comply with the City of Yuma's standards.

Chairman Saltzer opened the public hearing.

Jonathan Klein, 200 East 16th Street # 150, Yuma, Arizona, agent, explained the owner would like to split the properties and sell them to her long-term tenants. He stated the proposed parcels would meet the County standards per the Zoning Ordinance. He stated they were not proposing a new development. He explained all of the units have individual meters for City water and the firewall has been inspected and meets code. He stated the proposed request does not comply with the 21 year old pre-annexation agreement however, it does comply with the County's zoning.

Board Member Harper inquired about the pre-annexation agreement being 21 years old and the properties not being annexed yet.

Planning Director Maggie Castro, AICP, stated the applicant would have to talk to the City about the pre-annexation agreement.

Board Member Harper inquired about when the property was developed.

Mr. Klein stated it was developed on one property in 2004 around the same time as the pre-annexation agreement. He stated the parcels were split after the pre-annexation agreement into two parcels.

Board Member Lines inquired about the owner wanting to sell, but if the request was not approved it would be sold as a community interest.

Donna Marie Dibley, P.O. Box 5221, Yuma, Arizona, owner, stated the tenants do not want their home to be owned by another tenant. She stated they want to own their own homes. She stated real estate agents have approached her with offers to buy the properties and they want to charge 1,700 dollars for rent. She explained she only charges 800 dollars. She explained the tenants are young families with children that can walk to school. She explained she is getting older and does not know how much longer she could manage the properties.

Board Member Lines inquired if there were surrounding properties that have zero setbacks.

Board Member Harper inquired if the fire wall did, in fact, meet county code.

Planning Director Maggie Castro, AICP, stated staff would have to check the records from when the duplexes were built to see whether they meet current firewall regulations.

Ms. Dibley explained the fire inspector came and inspected the duplexes and said they were okay.

Planning Director Maggie Castro, AICP, explained the area was predominately single family residences. She stated there was one other parcel that has multi-family residences that had 3 to 4 duplexes. She stated there was no other parcels that have multi-family buildings with zero lot line.

There being no one else to come forward, Chairman Saltzer closed the public hearing.

Board Member Eisenmann made a motion to deny the request. There was no second to the motion.

MOTION (Lines/Harper): Approve Variance Case No. 22-11 subject to staff recommendations as well as to ensure that the firewall between the properties was rated and properly inspected and in compliance.

ROLL CALL VOTE: Eisenmann – NAY; Saltzer- AYE; Lines- AYE; Harper- AYE.
The motion carried 3-1.

ITEM No.5: Variance Case No. 22-14: Brandon Reagle requests a variance from the development standards of The Ograms Planned Development to allow a west side yard setback of zero feet for an existing canopy where ten feet is required on a parcel 1.3 gross acres in size zoned Planned Development (PD), Assessor's Parcel Number 180-26-026, located at 2315 East 8th Street, Yuma, Arizona.

Associate Planner Jesus Carrillo presented the staff report recommending approval of Variance Case No. 22-14 based on:

1. Staff finds approval of this request will not have adverse effects on public health, safety, and welfare.
2. Staff finds granting this variance will not confer a special privilege not commonly enjoyed by others in the PD district and will not have a negative impact on the neighborhood.

If the Board of Adjustment approves this variance, staff suggests attaching the following conditions:

1. This variance is valid for the time limits outlined in Section 403.07 of the Zoning Ordinance.
2. All required permits must be issued and finalized according to adopted 2018 International Residential Code.

Board Members reviewed the aerial image of the property.

Board Member Harper inquired if the shed structure was on someone else's property.

Associate Planner Jesus Carrillo explained the existing canopy was built in approximately 1955. He stated during that time the properties were one parcel. He explained the parcel was rezoned and split in 2009. He stated there was a note in the Land Division process that states the canopy would be removed. He stated there is a current court case between the property owners due to improvements made to the structure without a permit. He stated the applicant is trying to bring his property into compliance and is requesting a zero foot setback.

Board Member Lines inquired about the structure that appears to have a zero setback.

Associate Planner Jesus Carrillo stated that was the canopy. He explained the canopy used to be open and is now it is enclosed.

Planning Director Maggie Castro, AICP, explained the canopy was built prior to the property being split.

Board Member Saltzer inquired about where the property line is located.

Associate Planner Jesus Carrillo stated the property owner was present and would know more about where the property line is located.

Board Member Lines inquired about the lot split being approved with a zero foot setback.

Planning Director Maggie Castro, AICP, explained the Land Division Permit was approved subject to the structure being removed.

Chairman Saltzer opened the public hearing.

Brandon Reagle, 2315 East 8th Street, Yuma, Arizona, applicant, explained he purchased the land from his grandmother, she insisted that he build a home next to her. He explained they then did a lot split and during construction realized they were to remove the structure/canopy his grandfather had built. He stated his grandmother did not want it removed so they agreed to keep it intact. He stated he enclosed the canopy

years later due to his grandmother not wanting to see his storage in the canopy. He stated when his grandmother passed away there was a lot of discontent amongst the aunt and uncles. He stated his aunt inherited his grandmother's property and has since taken him to court due to the structure encroaching on her property. He stated he is aware he owes the County a firewall for the structure. He stated the structure had been there for over ten years, but because he did not have the permission in writing, the court ruled against him. He stated he just wants to know where he needs to move the wall so that he can be in compliance. He stated if there was a zero foot offset then his aunt could keep the shade structure on her side and he would build a firewall on his side.

Board Member Lines inquired about where the property line was.

Mr. Reagle explained where it was on the picture of the property.

Board Member Lines inquired about the applicants offer to his aunt in regards to the zero setback benefiting them both.

Mr. Reagle explained he made an offer to his aunt to pay for both of their properties to have the zero foot offset so that she could use the structure, but she declined the offer.

Planning Director Maggie Castro, AICP, explained the variance is only for Mr. Reagle's property. If this variance were approved then the neighboring property would have to apply for a variance to come into compliance.

Barry Olsen, 101 East 2nd Street, Yuma, Arizona, attorney for Melandee Barto, explained the structure stayed in place after the lot split because it was two family members that agreed upon it. He stated the part of the structure that is enclosed was built without a permit encroaching six feet onto Mrs. Barto's property. He stated the judge ordered Mr. Reagle to remove what he installed. He explained Mr. Reagle would need a zero setback to get the structure back at the property lot line. He stated his client does not have any opposition to that as long as Mr. Reagle gets the proper permits. He stated the variance should be for the structure, not the entire length of the property. He stated his client would request an additional condition to be placed on the removal of the trespass to be that Mr. Reagle only remove what he installed. He stated Mr. Reagle should be required to pay a survey to locate exactly where the property line is located.

Board Member Saltzer asked if Mr. Olsen's client intends on keeping her side of the shade structure.

Mr. Olsen stated his client does intend on keeping her side of the structure.

Board Member Harper stated he did not want to go against the judge's orders.

Mr. Olsen stated Mr. Reagle would be compliant with Judge Hawthorne's orders if the zero foot setback is approved for the structure only and he removes what he installed.

Mr. Reagle stated there had been two anonymous complaints about the structure being built without a permit and those were dismissed. He explained how he would remove what he constructed and how it would keep both structures intact with a 4 foot gap between them.

Mr. Olsen stated he had a serious problem with what Mr. Reagle had stated. He stated Mr. Reagle denied he did not have a permit for the structure. He stated Mr. Reagle did not get a permit and told the Board that he did. He stated the Board deserves to be told the truth.

Board Member Saltzer stated both parties do not have a permit for the entire structure.

Mr. Olsen stated when the structure was originally built the County codes were different. He stated when it was built it did not require any permits. He explained when the structure was enclosed is when it needed permits.

Mr. Reagle stated he was not trying to go back and forth and apologized. He explained he was not trying to imply that he had a permit. He stated he did not have a permit and did not realize he needed one. He explained he knows he needs a firewall and he was present to follow the rules and come into compliance. He explained he was not being mischievous and that he only stated there were complaints that were dismissed or unfounded.

William Ogram, 5494 West County 10th Street, Yuma, Arizona, property owner to the north of the subject property, stated a permit was not needed for the structure at the time that it was built.

Board Member Saltzer inquired if it was possible for the Board to approve the variance just for the structure and not the entire lot.

Planning Director Maggie Castro, AICP, stated yes, staff came up with a condition to be added if the variance is approved that states " This Variance applies solely to the structure labeled as existing canopy on the site plan that was provided by the applicant"

There being no one else to come forward, Chairman Saltzer closed the public hearing.

MOTION (LINES/SALTZER): Approve Variance Case No. 22-14 to include the staff's recommendations including the added condition.

ROLL CALL VOTE: Eisenmann – AYE; Saltzer- AYE; Lines- AYE; Harper- NAY.
The motion carried 3-1.

ITEM No.6: Variance Case No. 23-01: Chris Morris, agent for Raymond Erwin Ehly Jr Trust 2-25-1998, requests a variance from the Yuma County Zoning Ordinance, Section 601.05-Minimum Lot Width & Principal Buildings Setback Requirements, to allow a front yard setback of 20 feet and rear yard setback of 12 feet and 9 inches on a parcel 10,454 square feet in size zoned Rural Area-20 acre minimum (RA-20), Assessor's Parcel Number 459-58-010 located at 10445 West Vista Del Rio Street, Yuma, Arizona.

Associate Planner Jesus Carrillo presented the staff report recommending approval of Variance Case No. 23-01 based on:

1. Staff finds approval of this request will not have adverse effects on public health, safety, and welfare.
2. Staff finds there are specific peculiar conditions applicable to this property to warrant granting of this variance.
3. Staff finds granting this variance will not have a negative impact on the neighborhood.

If the Board of Adjustment approves this variance, staff suggests attaching the following conditions:

1. This variance is valid for the time limits outlined in Section 403.07 of the Zoning Ordinance.
2. Approval of this variance is based on the site plan submitted. Any deviation from the site plan will required approval of a new variance by the Board of Adjustment.
3. All required permits must be issued and finalized according to adopted 2018 International Residential Code requirements of Yuma County.

Chairman Saltzer opened the public hearing.

Chris Morris, 291 South Main Street, Yuma, Arizona, agent, stated the request would conform with the surrounding area. He used the site plan to explain how the request would not impede on other properties or the open roadway. He stated the setback request would allow them to keep the dwelling away from the water as much as possible and on level land.

There being no one else to come forward, Chairman Saltzer closed the public hearing.

MOTION (HARPER/LINES): Approve Variance Case No. 23-01 to include staff's recommendations.

ROLL CALL VOTE: Eisenmann – AYE; Saltzer- AYE; Lines- AYE; Harper- AYE.
The motion carried 4-0.

ITEM No.7: Variance Case No. 23-03: Chris Morris, agent for Charles Jr and Melanie Arnold, requests a variance from the development standards of Martinez Lake Resort Unit No. 1 Planned Development to allow a building height of 36 feet on a parcel zoned Planned Development (PD), Assessor's Parcel Numbers 459-50-047, located at 11318 North Smoke Tree Road, Yuma, Arizona.

Associate Planner Jesus Carrillo presented the staff report recommending approval of Variance Case No. 23-03 based on:

1. Staff finds there are peculiar conditions applicable to the subject property to warrant granting of this variance.
2. Staff finds there is hardship arising from conditions or circumstances unique to the development of this property.
3. Staff finds approval of this request will not have adverse effects on public health, safety, and welfare.

If the Board of Adjustment approves this variance, staff suggests attaching the following conditions:

1. This variance is valid for the time limits outlined in Section 403.07 of the Zoning Ordinance.
2. All required permits must be issued and finalized according to adopted Building and Fire Code requirements of Yuma County.

Chairman Saltzer opened the public hearing.

Chris Morris, 291 South Main Street, Yuma, Arizona, agent, explained the reason for the request. He explained the floor level is always to accomodate a four parking garage. The next two levels are for habitable living.

Board Member Eisenmann inquired about the amount of surrounding dwellings that are 36 feet in height.

Associate Planner Jesus Carrillo stated there were several and listed the location of the dwellings that are 36 feet in height that are nearby.

Mr. Morris stated all of the requests for 36 feet building heights have been approved. However, requested heights that are above the 36 feet were not approved.

There being no one else to come forward, Chairman Saltzer closed the public hearing.

MOTION (EISENMANN/LINES): Approve Variance Case No. 23-03 to include the recommendations by staff.

ROLL CALL VOTE: Eisenmann – AYE; Saltzer- AYE; Lines- AYE; Harper- AYE.
The motion carried 4-0.

ITEM No.8: Variance Case No. 23-04: Chris Morris, agent for Arthur and Suzanne Furrow, requests a variance from Section 601.05- Minimum Lot Width & Principal Buildings Setback Requirements, to allow a front yard setback of 20 feet, and Section 1011.00—Nonconforming Lots, to allow an east side yard setback of five feet, on a parcel 0.34 acres in size zoned Rural Area-20 acre minimum (RA-20), Assessor's Parcel Number 470-02-003, located at 10464 East Swede Lane, Yuma, Arizona.

Associate Planner Jose Guzman presented the staff report recommending approval of Variance Case No. 23-04 based on:

1. Staff finds approval of this variance may not have an adverse effect on public health, safety and welfare.
2. Staff finds there are specific peculiar conditions applicable to this property to warrant granting of this variance.
3. Staff finds granting this variance will not confer a special privilege not commonly enjoyed by others in the RA-20 district.

If the Board of Adjustment approves this variance, staff suggests attaching the following conditions:

1. This variance is valid for the time limits outlined in Section 403.07 of the Zoning Ordinance.
2. Approval of this variance is based on the site plan submitted. Any deviation from the site plan will required approval of a new variance by the Board of Adjustment.
3. All required permits must be issued and finalized according to adopted 2018 International Residential Code requirements of Yuma County.

Board Member Eisenmann inquired about what the current setback requirements were for the property.

Planning Director Maggie Castro, AICP, stated currently the property is required to have a front yard setback of 23 feet and 10 inches and an east side setback of 6 feet and 11 inches.

Board Member Eisenmann inquired about the requested setbacks.

Planning Director Maggie Castro, AICP, explained the request was for a front yard setback of 20 feet and an east side yard setback of five feet.

Board Member Eisenmann inquired about what the setbacks currently were.

Board Members explained there was a 2 foot difference for the side yard setback and a 4 foot difference for the front yard setback.

Chairman Saltzer opened the public hearing.

Chris Morris, 291 South Main Street, Yuma, Arizona, agent, explained the reasons for the request. He stated there was a drop off in the back of the property. He stated there would still be adequate parking.

Jim Platt, 10444 and 10454 East Swede Way, Yuma, Arizona, neighbor of the subject property, stated he had a concern. He explained the narrow road and how he parks into his properties. He stated the extra four feet would help with the road not to be congested and possibly block him into his properties if there are visitors. He explained he's been blocked in the past and would like to avoid that from happening again. He stated he was not against the construction or the height. He stated he's not really for the front yard setback but he was not against it, he stated something needs to be done to avoid the blocking.

Board Member Saltzer stated the owner could build a fence up to the property line. The building would just come forward a little.

Mr. Platt stated he has been blocked in when people park outside of the existing wall that is on the property line.

Board Member Saltzer stated parking is a concern is all of Martinez Lake area.

Mr. Morris explained exactly where the dwelling would be and explained the space for parking. He stated there needs to be communication between neighbors as well about parking.

Mr. Platt showed the Board where the access easement was located and it needed to remain open.

Mr. Morris stated it was a 15 foot access easement and it would stay open and available.

There being no one else to come forward, Chairman Saltzer closed the public hearing.

MOTION (HARPER/EISENMANN): Approve Variance Case No. 23-104 to include the recommendations by County staff.


ROLL CALL VOTE: Eisenmann – AYE; Saltzer- AYE; Lines- AYE; Harper- AYE.
The motion carried 4-0.

ITEM No. 9: Discussion by the Board members and Planning Director of events attended, current events, and the schedule for future Board of Adjustment meetings.

There being no further business to come before the Board, the Chairman adjourned the meeting at 2:30 p.m.

Approved and accepted on this 21st day of March 2023.

ATTEST:


Eric Saltzer, Chairman



Maggie Castro, AICP, Planning Director

